

RAILROAD COMMISSION OF TEXAS GAS SERVICES DIVISION

GAS UTILITIES INFORMATION BULLETIN

No. 886



RAILROAD COMMISSION OF TEXAS

**Victor G. Carrillo, Chairman
Elizabeth A. Jones, Commissioner
Michael L. Williams, Commissioner**

**William O. Geise
Director
Gas Services Division**

February 25, 2010

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Orders were issued in the following dockets:

GUD No. 9869: Petition for De Novo Review of the Denial of the Statement of Intent filed by Atmos Energy Corp. by the City of Dallas – *Final Order Nunc Pro Tunc*.

GUD No. 9902 (Consolidated): Statement of Intent filed by CenterPoint Energy Entex to Increase the Rate with the Cities of Galena Park, Jacinto City, Southside Place and West University Place as well as all of the Unincorporated Areas served by the Houston Division – *Final Order*.

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO. -- 9950
CAPTION -- Application of Atmos Pipeline -Texas for 2009 Test Year Annual Interim Rate Adjustment Filing.
DATE FILED -- February 12, 2010
FILED BY -- Charles R. Yarborough II
EXAMINER -- Mark Brock

DOCKET NO. -- 9951
CAPTION -- Statement of Intent filed by NatGas Inc. to Increase Rates In and Around the Unincorporated Community of Ozona, Texas.
DATE FILED -- February 11, 2010
FILED BY -- Norman W. Smith
EXAMINER -- John Chakales

DOCKET NO. -- 9952
CAPTION -- Application filed by SouthCross CCNG Transmission Ltd. Pursuant to Section 311 of the NGPA for Review of the Reasonableness of a Transmission Rate.
DATE FILED -- February 24, 2010
FILED BY -- Myles F. Reynolds
EXAMINER -- Mark Brock

DOCKET NO. -- 9953
CAPTION -- Application filed by Crosstex North Texas Gathering, L.P. for Sale of Jurisdictional Assets to Waskom Gas Processing Company and Certain of Its Affiliates.
DATE FILED -- February 22, 2010
FILED BY -- Toni Roew
EXAMINER -- Mark Brock

DOCKET NO. -- 9954
CAPTION -- Severed Rate Case Expenses from GUD No. 9902.
DATE FILED -- October 22, 2009
FILED BY --
EXAMINER -- Eugene Montes

SECTION 2
APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

None at this time.

SECTION 3
STATUS OF PENDING CASES

None at this time.

SECTION 4
NOTICES OF DISMISSAL

None at this time.

SECTION 5
ORDERS OF THE COMMISSION

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RAILROAD COMMISSION OF TEXAS

**PETITION FOR DE NOVO REVIEW OF THE
DENIAL OF THE STATEMENT OF INTENT
FILED BY ATMOS ENERGY CORP., MID-
TEX DIVISION BY THE CITY OF DALLAS;
STATEMENT OF INTENT TO INCREASE
GAS UTILITY RATES IN THE
UNINCORPORATED AREAS SERVED BY
THE MID-TEX DIVISION**

GAS UTILITIES DOCKET NO. 9869**FINAL ORDER NUNC PRO TUNC**

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 2004 & Supp. 2008). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Atmos Energy Corp., Mid-Tex Division (AAtmos@) is a utility as that term is defined in the Texas Utility Code and is subject to the jurisdiction of the Railroad Commission of Texas (ACommission@).
2. Atmos owns and operates a gas distribution system that provides gas service to customers located within the City of Dallas (ADallas@). Atmos provides gas distribution services to environs customers located in the following counties: Anderson, Archer, Bandera, Baylor, Bell, Bosque, Brazos, Brown, Burleson, Burnet, Callahan, Cherokee, Childress, Clay, Coke, Coleman, Collin, Comanche, Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Fisher, Foard, Freestone, Gillespie, Grayson, Gregg, Hamilton, Hardeman, Haskell, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jack, Johnson, Jones, Kaufman, Kendall, Kerr, Knox, Lamar, Lampasas, Lee, Leon, Limestone, Llano, Madison, McLennan, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Palo Pinto, Parker, Rains, Red River, Robertson, Rockwall, Runnels, Rusk, San Saba, Scurry, Shackelford, Smith, Somervell, Tarrant, Taylor, Throckmorton, Tom Green, Travis, Van Zandt, Wichita, Wilbarger, Williamson, Wise, Wood, and Young.
3. On November 5, 2008, Atmos filed a statement of intent to increase rates within the City of Dallas, Texas. On March 25, 2009, Dallas denied Atmos= rate request and reduced Atmos= rates for providing gas service to customers located within Dallas.
4. On April 23, 2009, Atmos filed with the Commission a petition for *de novo* review of Dallas= denial of Atmos= statement of intent and reduction in rates. Atmos included in its petition for *de novo* review a request that the Commission reinstate Atmos= rates for gas service that the utility was charging prior to Dallas= March 25, 2009, ordinance reducing the utility=s rates.
5. On April 23, 2009, Atmos filed with the Commission a statement of intent to change rates in the unincorporated areas served by Atmos. Atmos has proposed that the rates become effective on May 28, 2009. The statement of intent was docketed as GUD No 9870 and was consolidated by the Examiners into GUD No. 9869.
6. On May 19, 2009, the Commission suspended the implementation of Atmos= proposed rates for up to 150 days.
7. In support of its request to reinstate rates Atmos submitted a supersedes bond, in the amount of \$2,099,687, to protect the rate-payers pending the issuance of a final and appealable Commission decision establishing just and reasonable gas utility rates for the gas service Atmos provides within the City of Dallas. The commission approved Atmos= supersedes bond on June 18, 2009.

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8. On May 1, 2009, the City of Dallas (ADallas@) intervened in this proceeding. On April 27, 2009, the Staff of the Railroad Commission of Texas (AStaff@) intervened in this proceeding. On May 11, 2009, the State of Texas (AState@), by and through the Office of the Attorney General of Texas, Consumer Protection and Public Health Division, Public Agency Representation Section, intervened in this proceeding. No other persons intervened, filed protests or otherwise participated in this docket.

9. On May 8, 2009, Atmos filed a Motion to Adopt Joint Proposed Procedural Schedule which extended the statutory deadline in this proceeding until November 24, 2009, and was granted by the Hearings Examiners assigned to this docket on May 12, 2009. On December 2, 2009, Atmos filed a letter requesting an effective date of August 2, 2009, and thereby extending the statutory deadline in this docket until January 29, 2010.

10. Atmos= proposed rate increase will affect approximately 43,414 residential, 2,016 commercial, and 74 industrial sales and transportation customers located within the environs, and approximately 200,923 residential, 20,562 commercial, and 137 industrial sales and transportation customers located within the City of Dallas, Texas.

Test Year

11. The test year in this case was the 12-month period ending June 30, 2008.

Books and Records

12. Atmos maintains its books and records in accordance with the requirements of the Federal Energy Regulatory Commission=s (FERC) Uniform System of Accounts.

Notice and Hearing

13. For its customers located in the City of Dallas, Atmos Mid-Tex published notice once each week for four consecutive weeks in newspapers of general circulation in each county in which Atmos provides gas service. Notice was published once a week for four consecutive weeks beginning November 11, 2008 and ending the week of December 1, 2008. For customers located in the environs, Atmos provided notice by means of a bill insert beginning on May 22, 2009 and ending on June 19, 2009.

14. On August 4, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to all affected parties giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on August 18, 2009.

15. On August 4, 2009, the Examiners mailed by United States mail, postage prepaid, a Notice of Hearing to all county judges of the counties in which affected customers reside, giving notice of the final hearing to be conducted in Austin, Texas, at the offices of the Railroad Commission of Texas on August 18, 2009.

16. The Hearing convened on August 18, 2009 and was concluded on August 21, 2009.

Rate Base

17. The total amount of costs identified and attributable to Poly 1 pipe replacement is \$59,838 and has been removed from Atmos= rate base.

18. Atmos proposed adjustments to gross plant, accumulated depreciation, and ADIT balances for the time period January 1, 2009, through March 31, 2009, in an errata filing submitted by Atmos on August 4, 2009. Atmos added more than 1,200 new projects in the August 4, 2009, errata filing which totaled approximately \$33 million in capital investment to be added to Atmos' rate base. Atmos' proposal to add 1,200 new capital projects to rate base in its August 4, 2009, errata filing is unreasonable because the Commission, Examiners and intervenors in this proceeding do not have adequate

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time to review the data. It is unreasonable for Atmos to make post-test year adjustments to gross plant, accumulated depreciation and ADIT for the time period January 1, 2009 through March 31, 2009.

19. It is reasonable for the Commission to remove the January through March 2009 plant additions of \$32,792,028 for Mid-Tex and \$268,610 for SSU for a total removal of \$33,060,638 from Atmos' rate base.

20. It is reasonable for Atmos to update its test year data through December 31, 2008, for known and measurable changes.

21. The net plant amounts shown in the attached schedules are reasonable for the plant that is used and useful in providing gas utility service.

22. Atmos initially requested a Cash Working Capital adjustment to rate base of (\$31,935,075). Atmos updated this request to (\$33,017,661).

23. Atmos prepared a lead-lag study to determine an amount of cash working capital.

24. The evidence establishes that Atmos= proposed collection lag period of 17.95 days is reasonable and accurate.

25. The billing lag is the one-day lag between receiving payment and having funds available to draw at the bank. It is reasonable for Atmos to use a one-day billing lag.

26. The evidence establishes that a 42.02 day gas cost expense lag is reasonable and accurate.

27. The evidence establishes that a 24.64 day total labor expense lag is reasonable and accurate.

28. The evidence establishes that a 29.41 day non-labor O&M lag is reasonable and accurate.

29. The evidence establishes that a 95 day lag on franchise fees paid is reasonable and accurate.

30. The evidence indicates that Atmos made an appropriate adjustment to prepayments related to local gross receipts taxes of \$4,875,708 and no further adjustment is necessary.

31. A negative cash working capital of (\$33,017,661) as set out in the attached schedules is just and reasonable.

32. It is reasonable to remove from rate base remodeling costs of \$71,293 that were allocated to Atmos from Shared Service Unit as part of Project Nos. 010.11352 and 010.11353.

33. Accumulated Deferred Income Taxes (AADIT@) arise because Internal Revenue Code timing requirements related to the recognition of tax assets and liabilities differ from the timing requirements established by U.S. Generally Accepted Accounting Procedures (GAAP). Atmos= proposed treatment of ADIT is reasonable.

Expenses

34. Atmos= proposal to include \$5,062,755 in Shared Services Unit incentive compensation in this request, consisting of \$1,989,982 in SSU incentive compensation capitalized and \$3,072,774 of SSU incentive compensation expensed, is unreasonable because the Shared Service Unit incentive compensation is not tied to public safety, and therefore it is more appropriate that shareholders bear incentive compensation expenses as customers do not benefit from Atmos= incentive compensation plan.

35. Atmos= proposed adjustment to annualize employee base salaries and to include a 3.5 percent annual merit increase which occurred and was effective October 1, 2008 is reasonable.

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36. Atmos= proposed overtime expense level is reasonable because there is no evidence that establishes Atmos incurred unnecessary overtime expenses or mismanaged its employees so that excessive overtime was taken during the test year.
37. Atmos= proposed employee benefits expense is based on the projected per employee cost from an actuarial study performed by Towers Perrin and is reasonable and necessary.
38. Atmos= proposal to average the uncollectible expense for three years 2006, 2007 and 2008 is reasonable and necessary.
39. Atmos= proposed outside services expense is reasonable and necessary.
40. Atmos= proposed distribution load dispatching expense during the test year was reasonable and necessary.
41. Atmos= proposed test year level of gasoline expense is unreasonable because the test year level of gasoline expense was atypical. As a result, Dallas= proposal to normalize gasoline expense is reasonable and therefore Atmos= gasoline expenses should be reduced by (\$473,187).
42. Atmos= proposed test year level of pipeline integrity testing expense is reasonable and necessary.
43. Atmos= proposed test year level of pipeline employee expense is reasonable and necessary.
44. Atmos= proposed test year level of relocation expense is reasonable and necessary.
45. Atmos= proposed test year level of office supply expense is reasonable and necessary.

Rate of Return and Cost of Capital

46. It is reasonable for Atmos to use a quarterly Discounted Cash Flow (ADCF@) model as one method to determine a reasonable cost of equity because Atmos and the companies in the proxy group make dividend payments on a quarterly basis and the quarterly DCF model accurately reflects the cash flows an investor receives.
47. It is not reasonable to include four companies, Energen, EQT, ONEOK, and Questar, in a proxy group for purposes of determining Atmos= cost of equity because these four companies generate a higher percentage of revenues earned from non-gas distribution activities than does Atmos and the other proxy group companies.
48. The inclusion of an estimation of flotation costs is not necessary, reasonable and required to determine Atmos= cost of equity because there is no evidence that flotation costs affect the opinions of investors.
49. It is not reasonable for Atmos to use a growth rate utilizing analyst estimates of future EPS growth for the individual companies used in the proxy study because there is no evidence that estimates of future EPS growth rates for the individual companies in the proxy group are reliable, accurate, and capable of forecasting the future EPS growth of these specific companies with accuracy and reliability.
50. It is not reasonable for Atmos to use the forecasted yield on the twenty-year Treasury bond in a CAPM study because there is no evidence that the forecasted yield is reasonable, reliable or accurate.
51. It is reasonable to use Atmos= actual capital structure of 48.91 percent common equity and 51.09 percent long-term debt for purposes of determining Atmos= weighted average cost of capital and allowable rate of return.
52. It is reasonable to use Atmos= actual cost of long-term debt of 6.88 percent for purposes of determining Atmos= weighted average cost of capital and allowable rate of return.

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53. It is reasonable to use a cost of equity of 10.40 percent for purposes of determining Atmos= weighted average cost of capital and allowable rate of return.

54. An overall rate of return of 8.60 percent based on Atmos= weighted average cost of capital is reasonable.

Shared Services

55. Atmos' proposed allocation of both the Waco and Amarillo call centers and Cost Center 1158 using Rate 2 is reasonable.

56. Atmos did not make additions to accounts 399.01, 399.02, and 399.24 in 21 months sufficient to increase the balances in these accounts to a point where they would not be fully depreciated. It is reasonable to remove the depreciation expense of these three accounts from the cost of service.

57. Atmos' proposed treatment of Cost Center 1502 - Corporate Secretary, Cost Center 1162 - Benefits Accounting, Cost Center 1226 - Customer Service, Cost Center 1228 - Customer Revenue Management, and Cost Center 1408 - Employee Development is reasonable.

58. Atmos' proposal to allocate costs for Shared Service Unit Cost Centers 1109, 1115, 1148, 1200, 1215, 1226, 1227, and 1228 based on allocation factor Rate 2 or 49.18% is reasonable.

Rate Design

59. Atmos= proposed minimum customer charges for all rate classes, as shown in the attached schedules are reasonable because they will allow for a higher recovery of fixed costs and result in a rate structure that is more decoupled from volume usage than Atmos= previous rates.

60. Atmos' proposed declining usage adjustment is not reasonable.

62. Atmos' proposed weather normalization calculation is reasonable.

Affiliates

63. Atmos has established that Blueflame is an affiliate of Atmos Energy Corporation and the expenses related to Blueflame for property insurance are reasonable and necessary. The price charged by Blueflame to Atmos is not higher than the prices charged by it to other affiliates or divisions or to a nonaffiliated person or entity for property insurance.

Regulatory Asset

64. In order to enable the Commission to consider the proper classification of ad valorem expense related to working gas in storage, it is reasonable to book this expenses as a regulatory asset for consideration in the next Atmos Pipeline-Texas case.

65. In order to enable the Commission to consider the proper classification of WACOG to FIFO and the UNICAP Section 263A issues of ADIT that are related to working gas in storage, it is reasonable to book this investment as a regulatory asset for consideration in the next Atmos Pipeline-Texas rate case.

GRIP Refunds

66. Atmos placed two projects in its 2007 GRIP filing with the City of Dallas: Project Nos. 080.23983 and 080.23337. Both projects involved pipe additions to Atmos= distribution system. At the time of the 2007 GRIP filing

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the projects were tied-into the Atmos system. However, neither project was placed in service at the time of the 2007 GRIP filing because no gas was flowed through these additions. At the time of the 2007 GRIP filing these two projects were not used and useful in providing gas service to Atmos= customers. Therefore Atmos should refund all amounts collected for these projects under the 2007 GRIP filing. The amounts to be refunded are \$1,972,865 for Project No. 080.23983 and \$1,000,038 for Project No. 080.23337.

67. Atmos= proposal to recover certain expenses associated with financial hedging in the utility=s Rider GCR are not reasonable and therefore should be denied.

CONCLUSIONS OF LAW

1. Atmos Energy Corp., Mid-Tex Division (AAtmos@) is a "Gas Utility" as defined in TEX. UTIL. CODE ANN. ' 101.003(7) (Vernon 2007 & Supp. 2008) and ' 121.001 (Vernon 2007 & Supp. 2008) and is therefore subject to the jurisdiction of the Railroad Commission (ACommission@) of Texas.

2. Under TEX. UTIL. CODE ANN. ' 102.001(b) (Vernon 2007 & Supp. 2008) the Commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction over a gas utility.

3. The Commission has jurisdiction over Atmos and Atmos= petition for *de novo* review under TEX. UTIL. CODE ANN. ' ' 102.001, 103.051, 103.054, 103.055, 104.001 and 104.201 (Vernon 2007 & Supp. 2008).

4. This Statement of Intent and Petition for Review was processed in accordance with the requirements of the Gas Utility Regulatory Act (GURA), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. ' ' 2001.001-2001.902 (Vernon 2000 and Supp. 2004) (APA).

5. Under TEX. UTIL. CODE ANN. ' 102.001 (Vernon 2007 & Supp. 2008), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.

6. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under TEX. UTIL. CODE ANN. ' 101.002 (Vernon 2007 & Supp. 2008), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utility.

7 TEX. UTIL. CODE ANN. ' 104.107 (Vernon 2007 & Supp. 2008) provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.

8. The proposed rates constitute a major change as defined by TEX. UTIL. CODE ANN. ' 104.101 (Vernon 2007 & Supp. 2008).

9. In accordance with TEX. UTIL. CODE ' 104.103 (Vernon 2007 & Supp. 2008), 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002), adequate notice was properly provided.

10. Atmos did not meet the required burden of proof in accordance with the provisions of TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007 & Supp. 2008) on the elements of its requested rate increase identified in this order, and as set forth in the schedules and tariffs attached hereto.

11. The rates and tariffs proposed by the Examiners, as set forth in the above findings of fact and attached hereto, are found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. ' 104.003 (Vernon 2007 & Supp. 2008).

12. The overall revenues as established by the findings of fact and attached schedules and tariffs are reasonable; fix an overall level of revenues for Atmos that will permit the company a reasonable opportunity to earn a reasonable return

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on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by TEX. UTIL. CODE ANN. ' 104.051 (Vernon 2007 & Supp. 2008); and otherwise comply with Chapter 104 of the Texas Utilities Code.

13. The rates and tariffs set forth in the findings of fact and attached schedules will not yield to Atmos more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by TEX. UTIL. CODE ANN. ' 104.052 (Vernon 2007 & Supp. 2008).

14. It is reasonable for the Commission to allow Atmos to include a Cost of Gas Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 TEX. ADMIN. CODE ' 7.5519 (2002).

15. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with TEX. ADMIN. CODE ' 7.5519 (2002).

16. Atmos is required by 16 TEX. ADMIN. CODE ' 7.315 (2002) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.

17. Rate case expenses for GUD No. 9869 will be considered by the Commission in accordance with TEX. UTIL. CODE ANN. ' 104.008 (Vernon 2007 & Supp. 2008), and 16 TEX. ADMIN. CODE ' 7.5530 (2002), in a separate proceeding.

18. Atmos' mailing of notice meets the statutory and rule requirements of notice and provides sufficient information to rate payers about the statement of intent and satisfies the requirements imposed under TEX. UTIL. CODE ANN. ' 104.103(b)(2) (Vernon 2007 & Supp. 2008) and 16 TEX. ADMIN. CODE ANN. ' 7.230 (2002), and 16 TEX. ADMIN. CODE ANN. ' 7.235 (2002).

IT IS THEREFORE ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and in the attached schedules for Atmos are hereby **APPROVED**.

IT IS FURTHER ORDERED that, in accordance with 16 TEX. ADMIN. CODE §7.315, within 30 days of the date this Order is signed, Atmos shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown in the attached Schedules.

IT IS FURTHER ORDERED that Atmos shall not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE § 102.151 and 104.002 and 16 TEX. ADMIN. CODE ANN. § 7.315 (2008).

IT IS FURTHER ORDERED that Atmos shall be allowed to establish a regulatory asset for the ad valorem taxes related to working gas in storage. In addition, Atmos shall be allowed to establish a regulatory asset for (1) the costs associated with Accumulated Deferred Income Tax for UNICAP Section 263A, (2) the WACOG to FIFO change, and (3) an amount equal to the rate of return approved in this docket for the Accumulated Deferred Income Tax items related to working gas in storage. Atmos shall record these amounts in Other Regulatory Assets (Account 182.3). These deferred items shall be considered, along with the investment in working gas, for inclusion in rates for Atmos Pipeline-Texas in that entity's next filed rate case. If the Commission determines that such deferred items are not properly included in the rates of Atmos Pipeline - Texas, the items shall be further deferred until the next Atmos Mid-Tex rate case filed after the final decision in the Atmos Pipeline-Texas rate case for inclusion with the working gas investment in the Atmos Mid-Tex rates.

IT IS FURTHER ORDERED that Atmos shall refund to its customers \$1,972,865 for Project No. 080.23983 and \$1,000,038 for Project No. 080.23337.

IT IS FURTHER ORDERED that this Order shall not be final and effective until twenty days after a party is notified of the Commission's Order. Under TEX. GOV'T CODE § 2001.142(c), a party shall be presumed to have been notified of the

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Commission's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled or, if granted, this Order shall be subject to further action by the Commission pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**.

IT IS ALSO ORDERED that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 23rd day of February, 2010.

RAILROAD COMMISSION OF TEXAS

/s/
CHAIRMAN VICTOR G. CARRILLO

/s/
COMMISSIONER ELIZABETH A. JONES

/s/
COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Rachel Hampton
SECRETARY

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

February 25, 2010

STATEMENT OF INTENT OF CENTERPOINT §
 ENERGY RESOURCES CORP. D/B/A §
 CENTERPOINT ENERGY ENTEx AND §
 CENTERPOINT ENERGY TEXAS GAS TO §
 INCREASE RATES ON A DIVISION-WIDE §
 BASIS IN THE HOUSTON DIVISION §

GAS UTILITIES DOCKET
No. 9902 (Consolidated)

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Ann. Chap 551, et seq. (Vernon 2004 & Supp. 2008). The Railroad Commission adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint") is a gas utility as that term is defined in the Texas Utility Code.
2. On July 31, 2009, CenterPoint filed a *Statement of Intent* to increase rates on a division-wide basis in the Houston Division.
3. The implementation of the proposed rates were suspended on August 18, 2009.
4. The Houston Division includes areas in Fort Bend, Harris, Montgomery and Walker counties and provides natural gas service within the following municipalities: Bellaire, Bunker Hill Village, Conroe, Cut and Shoot, Deer Park, Galena Park, Hedwig Village, Hillshire Village, Houston, Humble, Hunters Creek Village, Jacinto City, Jersey Village, La Porte, Meadows Place, Missouri City, Nassau Bay, New Waverly, Oak Ridge North, Panorama, Pasadena, Piney Point, Roman Forest, Sugar Land, Shenandoah, South Houston, Southside Place, Spring Valley, Stafford, Webster, West University Place, and Willis.
5. CenterPoint also filed a Statement of Intent to increase rates in those jurisdictions affected by the proposed rate increase on July 31, 2009.
6. The Commission has jurisdiction over CenterPoint and over the matters at issue in this proceeding pursuant to *Tex. Util. Code Ann.* §§ 102.001, 103.003, 103.051, 104.001, 121.051, 121.052, and 121.151 (Vernon 2008). The statutes and rules involved in this proceeding include, but are not limited to *Tex. Util. Code Ann.* §§ 104.101, 104.102, 104.103, 104.105, 104.106, 104.107, 104.110, 104.301, and 16 *Tex. Admin. Code* Chapter 7.
7. Notice of the proposed increase was published on August 15, 2009, August 18, 2009, August 25, 2009, and September 1, 2009.
8. The cities of Galena Park, Jacinto City, Southside Place, and West University ceded their original jurisdiction to the Commission pursuant to GURA § 103.003(a).
9. The Cities of Hedwig Village and Hunters Creek Village denied the proposed rate increase and CenterPoint appealed. That case was docketed as GUD No. 9908, *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas, from the Actions of the Cities of Hedwig Village and Hunters Creek Village*.
10. The cities of Bunker Hill Village, Conroe, Hillshire Village, Houston, Humble, Jersey Village, Nassau, Piney Point Village, Pasadena, Shenandoah, Spring Valley Village, and Stafford denied the proposed increase. CenterPoint appealed and that case was docketed as GUD No. 9929, *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of Bunker Hill Village, Conroe, Hillshire Village, Houston, Humble, Jersey Village, Nassau Bay, Piney Point Village,*

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Pasadena, Shenandoah, Spring Valley Village, and Stafford.

11. The cities of Deer Park, Meadows Place and Missouri City also denied the proposed increase and CenterPoint filed an appeal that was docketed as GUD No. 9941, *Appeal of CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas from the actions of Deer Park, Meadows Place, and Missouri City.*
12. GUD Nos. 9908, 9929, and 9941 were consolidated into this proceeding, GUD No. 9902.
13. The following entities intervened in this proceeding: The City of Houston and the Houston Coalition of Cities (“City of Houston/Houston Coalition” or “COH/HCC”) representing the City of Houston, the City of Deer Park, the City of Pasadena, the City of Humble, and the City of Meadows Place; the Gulf Coast Coalition of Cities (“GCCC”) representing Bunker Hill Village, Jersey Village, Nassau Bay, Shenandoah, and Spring Valley Village; the Steering Committee of Cities (“SCC”) representing the City of Conroe and the City of Oak Ridge North; the State of Texas (“State”) and Staff of the Railroad Commission (“Staff”).
14. The hearing in this matter commenced on November 4, 2009, and was concluded on November 6, 2009.
15. On October 14, 2009, the Commission issued an Interim Order and ruled as follows:
 - a. The issue of whether a utility may seek system-wide rates shall not be litigated in this proceeding. The ruling, however, did not preclude litigation regarding whether CenterPoint has established that system-wide rates are appropriate for the Houston Division.
 - b. For purposes of 16 Tex. Admin. Code § 7.5519(a) an uncollectible gas cost is a “gas cost.” CenterPoint must establish, however, that it is reasonable for it to recover the gas cost portion of uncollectible expenses through its purchase gas adjustment clause.
 - c. Issues related to the federal income tax rate to be applied in this proceeding shall be precluded from further litigation. The ruling, however, did not preclude litigation of other calculations used to arrive at the proposed allowance for federal income taxes.
 - d. Rate cases expense will be considered by the Commission in accordance with Tex. Util. Code Ann. § 103.022 and §104.008 (Vernon 2008), and Tex Admin. Code § 7.5530, in a separate proceeding.
16. The Commission also determined that it shall consider directly any issues related to the prudence of the company’s gas costs.

Rate Base

17. CenterPoint’s proposed level of adjusted rate base is not reasonable.
18. The *Statement of Intent* filed included a rate base requested based upon the test-year period ending March 31, 2009, adjusted for construction work in progress and *pro-forma* adjustments through March 31, 2010.
19. Consistent with prior Commission determinations, and as established through the evidence presented in this case, a *pro-forma* adjustment is merely an estimate of investments that may be made at some time in the future, and is not reasonable.
20. There was no evidence presented that the *pro-forma* adjustments in the initial filing were known and measurable.

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21. CenterPoint filed an update to its initial rate increase request based upon the test-year period ending September 30, 2009.
22. The updated filing was made on October 29, 2009, after prefiled direct testimony regarding the initial *Statement of Intent* was filed, and three working days prior to the commencement of the hearing.
23. As of October 16, 2009, CenterPoint had not closed its books and records for the month of September 2009.
24. No workpapers were provided in support of the October 29, 2009, update and plant in service was revised to include an expenditure in the amount of \$3,679,892, that had not been included in the original *Statement of Intent*.
25. The parties have not had adequate time in this case to evaluate the updated filing prior to the commencement of the hearing.
26. An adjustment to the test-year ended March 31, 2009, for known and measurable changes updated for CWIP that had been placed in service through June 30, 2009, is reasonable and all parties have had an opportunity to review those figures.
27. Based on a test-year ended March 31, 2009, adjusted for known and measurable changes through June 30, 2009, a total original cost of \$867,477,455, a total reserve for depreciation of \$430,343,142, and a total net plant of \$367,489,848 is just and reasonable.
28. The removal of storage gas from rate base is reasonable.
29. CenterPoint has not established that a cash working capital requirement of \$2,151,434 is just and reasonable.
30. CenterPoint has not established that its proposed collection lag is just and reasonable.
31. Factoring accounts receivables reduces collection lag.
32. CenterPoint factors accounts receivable and the factoring arrangement entitled, *Accounts Receivables Factoring Arrangement*, is not reflected in its calculation of the collection lag.
33. The factoring arrangement with its affiliate deprives the Houston Division of any benefits related to factoring and is not reasonable.
34. Evidence in the record established that CenterPoint has the ability to factor between 27.35 to 65.03 percent of its accounts receivable.
35. It is reasonable to consider a factoring arrangement wherein 27.35% of the accounts receivable are factored and that the costs associated with that level of factoring in the amount of \$23,139 is just and reasonable.
36. A factoring arrangement with zero days indicates that there is no lag in the factoring transaction and is, therefore, not reasonable.
37. A factoring arrangement with one day indicates that there is a one day lag in the factoring transaction and is reasonable.
38. The billing process proposed by the company is approximately six days for residential and commercial customers.
39. CenterPoint has not established that the billing process requires a full six days and evidence in the record established that the company was able to process bills within three days of the meter reading date and that other

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- utilities have a shorter billing lag of 1.36 or 2.72 days.
40. A billing lag of approximately three days, or 2.88 days is reasonable.
 41. The billing process is reasonable and six days to accomplish those tasks is not just and reasonable.
 42. CenterPoint has established that a gas expense lead of 40.56 days is reasonable.
 43. Adjusting the gas expense lead calculation for bills paid before the due date is not necessary as early payment may result in benefits to the utility.
 44. CenterPoint has established that the O&M Labor lead of 25.56 is reasonable.
 45. The proposed adjustment to the company's proposed vacation lead of 194.56 vacation days based upon an assumption that vacation is not taken evenly throughout the year is not supported by empirical evidence nor is a vacation lead of three and a half years supported by empirical evidence. CenterPoint has established that the company's proposed vacation lead is reasonable.
 46. CenterPoint has not established that its proposed expense lead of 29.24 days for O&M Non Labor was just and reasonable. CenterPoint was not able to produce the underlying invoices to establish the reasonableness of its calculation. The sample selected to calculate the expense lead failed to properly recognize payment terms associated with numerous invoices. CenterPoint failed to recognize the comparable service periods identified in other invoices. CenterPoint failed to correctly capture the service period reflected on certain invoices. An expense lead of 32.27 days is just and reasonable.
 47. The expense lead proposed by CenterPoint for Taxes Other than Income Taxes of 42.95 days is just and reasonable and is not disputed by the parties to this proceeding.
 48. CenterPoint's proposal for 37.25 day expense lead for federal income taxes is just and reasonable as it is consistent with the requirements of the Internal Revenue Service and precedent of the Railroad Commission.
 49. A negative cash working capital in the amount of \$10,496,886 is just and reasonable.
 50. An accumulated deferred income tax debit should not be included in the calculation of rate base unless the revenue that gave rise to the tax liability has been deducted from rate base.
 51. Ratepayers provided the fund for the reserve and the funds from the reserve are available to the utility.
 52. Including the associated accumulated deferred income tax debit imposes a carrying charge on funds the ratepayer has provided.
 53. The reserve for total miscellaneous expense (Bad Debt) has not been deducted from rate base and it is not reasonable to include an accumulated deferred income tax debit in rate base for the tax liability associated with this reserve.
 54. The reserve for total employee benefit accruals has not been deducted from rate base and it is not reasonable to include an accumulated deferred income tax debit in rate base for the tax liability associated with this reserve.
 55. The reserve for rate case expense has not been deducted from rate base and it is not reasonable to include an accumulated deferred income tax debit in rate base for the tax liability associated with this reserve.
 56. CenterPoint established that ratepayers have not previously provided the reserve for deferred State Income Taxes and it is reasonable to include an accumulated deferred income tax debit in rate base for the tax liability associated with this reserve.

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57. A total net accumulated reserve income tax of \$51,279,950 based upon the test year ended March 31, 2009, is just and reasonable.

Expenses

58. CenterPoint has not established that a proposed base payroll amount of \$31,486,917 is just and reasonable.
59. CenterPoint refused to provide data related to the number of vacancies. That data is necessary to verify CenterPoint's post test-year adjustment.
60. The base payroll for the test-year ended March 31, 2009, in the amount of \$31,029,034 is just and reasonable. Any attempt to adjust that figure through March 31, 2010, is not known and measurable and is speculative.
61. Merit increases reflected in the test-year level of payroll are just and reasonable. Removal of those amounts would reduce the base payroll level below test-year levels for the test year ended March 31, 2009.
62. CenterPoint based its level of overtime expense on test-year levels for the test-year ended March 31, 2009. The test-year level of overtime expense is consistent with the levels experienced from 2005 through 2009, and was lower than the overtime expenses experienced in 2006.
63. CenterPoint established that expenses related to incentive compensation plans, long-term incentive and short-term incentive, are just and reasonable. The plans included customer oriented goals related to the following: (1) phone responses, (2) customer satisfaction surveys, (3) resource utilization, (4) recordable incident rate, (5) lost time incident rate, (6) preventable vehicle incident rate.
64. An adjustment to the test-year level of sick leave is not just and reasonable.
65. A reduction to the payroll expense requires an adjustment to expenses related to CenterPoint's employee savings plan and to payroll taxes.
66. CenterPoint proposed an adjustment to the medical expenses determined for the test year ended March 31, 2009. The proposed adjustment totaled \$1,430,421 and was based upon a methodology that focused upon the highest monthly expenses for medical expenses. The first quarter of the year generally has the highest level of medical expenses as established by examining data for the period from 2006 through 2009. An adjustment based upon the historical average from January 2006 through June 2009 is reasonable and the test-year level of medical expenses should be adjusted no more than \$418,191.
67. The pension expense for the test-year ended March 31, 2009, was \$836,915. CenterPoint proposed a post test-year adjustment of \$4,549,789. The proposed adjustment is not just and reasonable.
68. The proposed adjustment to pension expense was the result of a projected benefit obligation that is not known and measurable. Improvements in the economy will change the benefit obligation and CenterPoint has not taken this into account.
69. The proposed adjustment to pension expense places the entire burden of the loss on the ratepayer, even though CenterPoint manages the funds and decisions made by the utility compounded the losses experienced in the fund.
70. An adjustment to the test-year level of pension expense in the amount of \$1,208,913 for the Houston Division is just and reasonable and an adjustment to the test-year level of pension expense for Corporate Support Services identified by CenterPoint in the amount of \$368,148 is just and reasonable.
71. The post-retirement expense for the test year ended March 31, 2009 was \$2,084,924 and CenterPoint proposed an adjustment of \$528,153.

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72. The proposed post test-year adjustment is not just and reasonable as the adjustment is not known and measurable and would raise the post retirement expenses to a level not realized since March 2006, including the monthly amount recorded for the test year through June 2 2009.
73. An adjustment test-year expense related to post-retirement expense in the amount of \$145,806 is just and reasonable.
74. The post-employment benefits expense for the test-year ended March 31, 2009, was \$176,950. CenterPoint's proposal to adjust this level of expense by \$514,974 is not just and reasonable. The adjustment was based on the quarter of the year that exhibited the highest level of expense in this category.
75. An adjustment to post-employment benefits expense based upon the expense for the period from January 2006 through June 2009 is just and reasonable and therefore, an adjustment in the amount of \$57,488 to the test-year level of expense is reasonable.
76. CenterPoint established that it incurred reasonable and necessary expenses to respond to Hurricane Ike in the amount of \$2,571,915. The amounts to be recovered from insurance claims have not been finalized and it is reasonable to establish a separate tariff to allow recovery of those reasonable expenses minus amounts recovered from the company's insurance carrier.
77. CenterPoint has established that the utility's test-year level of expense for gasoline expenses for the test year ended March 31, 2009, is just and reasonable. There is no method for accurately determining the future price of gasoline and an adjustment is not known and measurable.
78. CenterPoint has not established that an adjustment for test-year levels of general liability, workers compensation, and auto liability is just and reasonable. As to workers compensation, CenterPoint has not established that injuries and damages expense should include amounts for workers compensation claims as those claims have been paid by the company's insurance carrier. Centerpoint provided no explanation as to why those expense are included in the utility's cost of service calculation. As to general liability claims and auto liability claims the proposed adjustment based upon a ten-year normalization is not just and reasonable.
79. The record indicates that the level of uncollectible expense may be impacted by the Houston Division's factoring arrangement, although the exact impact has not been quantified. Nevertheless, once the proposed level of bad debt expense is corrected to remove an error in the amount of \$63,761, CenterPoint has established that its level of uncollectible expense is just and reasonable.
80. Services are provided to the Houston Division from an affiliate, CenterPoint Energy Services Company.
81. CenterPoint established that except to the extent adjusted in the foregoing findings of fact the services provided by the affiliate are reasonableness and necessary and its allocation of costs from the affiliate are just and reasonable and ensure that those expenses are reasonable and necessary and that the price charged to the Houston Division are no higher than the prices charged by the supplying affiliate to its other affiliates or divisions, or to a non-affiliated person for the same item or class of items.
82. Expect for issues related to factoring of accounts receivable, CenterPoint has established that the expenses related to corporate services charges to FERC account 903 are just and reasonable and recent increases are due in part to increases in the volume and the average length of calls.

Depreciation Expense

83. CenterPoint has not established that the depreciation expense for Account 392 is just and reasonable. CenterPoint accounts for trailers in FERC Account 396. Proper accounting requires that the expenses be booked to Account 392 and would impact the depreciation expense for that account. An eight-year service life

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for Account 392 and a depreciation rate of 12.5% is just and reasonable.

84. The depreciation rates proposed for Account 303.01 and Account 303.02 are just and reasonable.
85. CenterPoint has established that the adjustments to excess accumulated depreciation are just and reasonable.

Taxes

86. CenterPoint has not established that its proposed adjustment to the test-year level of expense for *ad valorem* taxes is known and measurable.

Rate of Return

87. A capital structure of 44.40% debt and 55.60% equity is just and reasonable.
88. A cost of debt of 6.334% is just and reasonable.
89. The current economic conditions have affected all industries adversely, including the utility industry.
90. A return on equity of 10.5% is just and reasonable.

Service Charges

91. CenterPoint established that the proposed service charge of \$47.00 for after-hours service calls was just and reasonable but has not added revenues to be generated from the service charge. The proposed service charge will increase miscellaneous service revenue by \$57,380.

Allocation

92. The proposed minimum system study based upon two-inch pipe is just and reasonable and consistent with precedent of the Railroad Commission.
93. The allocation methodology based upon a design day study is just and reasonable and consistent with precedent of the Railroad Commission.

Rate Design

94. CenterPoint established that the proposed billing determinants are just and reasonable. Although the number of customers continue to increase from year to year, the size of that increase has diminished and a downward adjustment to the billing determinants is reasonable.
95. Residential rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$13.54 and volumetric charges of \$0.0308 per Ccf on all gas volumes, are reasonable.
96. General Service-Small rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$14.59 and volumetric charges of \$0.0403 per Ccf on all gas volumes are just and reasonable.
97. General Service-Large rates, as shown on the attached rate schedule, consisting of a monthly customer charge of \$191.00 and volumetric charges of \$0.0554 per Ccf on all gas volumes are just and reasonable.
98. CenterPoint has established that its proposed change to the tax adjustment tariffs and the proposed treatment of franchise fees is just and reasonable:

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- a. In the Houston Division most of the delivery points are outside the city limits and the environs customers do not share in the revenues generated by the municipal franchise fees.
 - b. The proposed change assures transparency and that the recovery of franchise fees is accurate and will not result in an over recovery or under-recovery.
 - c. The proposed change is consistent with precedent of the Railroad Commission of Texas.
99. As a result of the requested change to the recovery of franchise fees it is reasonable to require that CenterPoint file as part of its tariff filing a current listing of each municipality and applicable franchise fee as reflected in the attached tariffs.
 100. CenterPoint has established that it is just and reasonable to recover a carrying cost for its investment in gas storage through the Purchase Gas Adjustment Clause and that it is reasonable to recover a carrying charge at the pre-tax rate of return of 11.7940%.
 101. CenterPoint has not established that it is reasonable for it to recover the gas cost portion of uncollectible expense through the Purchase Gas Adjustment Clause as it has not accounted for the impact of factoring and it has not established that proper reporting mechanisms are in place to track those expenses.
 102. CenterPoint has established that the carrying cost on the over or under recovery of gas cost should be set at six percent.
 103. CenterPoint has indicated its intent to cease hedging gas costs through the use of financial instruments. Accordingly, it is reasonable to amend the current Purchase Gas Adjustment Clause to reflect this change as follows:

The cost of natural gas shall include the cost of gas supplies purchased for resale hereunder, upstream transportation charges, storage charges, the cost of gas withdrawn from storage less the cost of gas injected into storage, and any transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments used by the Company to stabilize prices, provided such financial instruments were entered into prior to September 30, 2009 and were in effect as of February 1, 2010. Expenses related to the use of various financial instruments used by the Company to stabilize prices shall not be included in the purchase gas adjustment clause after December 31, 2012.
 104. Additionally, CenterPoint is directed to continue filing its annual report outlining its Gas Procurement Plan and an annual report analyzing its results from its hedging practices.
 105. The rates reflected in the attached schedules are just and reasonable.

CONCLUSIONS OF LAW

1. CenterPoint Energy Entex (CenterPoint) is a "Gas Utility" as defined in Tex. Util. Code Ann. §101.003(7) (Vernon 2007) and §121.001(2009) and is therefore subject to the jurisdiction of the Railroad Commission (Commission) of Texas.
2. The Railroad Commission of Texas (Commission) has jurisdiction over CenterPoint and CenterPoint's *Statement of Intent* and appeals under Tex. Util. Code Ann. §§ 102.001, 103.022, 103.054, & 103.055, 104.001, 104.001 and 104.201 (Vernon 2007).
3. Under Tex. Util. Code Ann. §102.001 (Vernon 2007), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that

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distributes the gas to the public.

4. This Statement of Intent and Appeals were processed in accordance with the requirements of the Gas Utility regulatory Act (GURA), and the Administrative Procedure Act, Tex. Gov't Code ANN. §§2001.001-2001.902 (Vernon 2000 and Supp. 2009) (APA).
5. In accordance with the stated purpose of the Texas Utilities Code, Subtitle A, expressed under Tex. Util. Code Ann. §101.002 (Vernon 2007), the Commission has assured that the rates, operations, and services established in this docket are just and reasonable to customers and to the utilities.
6. Tex. Util. Code Ann. §104.107 (Vernon 2007) provides the Commission's authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
7. The proposed rates constitute a major change as defined by Tex. Util. Code Ann. §104.101 (Vernon 2007).
8. In accordance with Tex. Util. Code §104.103 (Vernon 2007), 16 Tex. Admin. Code Ann. §7.230 (2008), and 16 Tex. Admin. Code Ann. § 7.235 (2008), adequate notice was properly provided.
9. In accordance with the provisions of Tex. Util. Code Ann. §104.102 (Vernon 2007 and Supp. 2009), 16 Tex. Admin. Code Ann. §7.205 (2008), and 16 Tex. Admin. Code §7.210 (2008), CenterPoint filed its Statement of Intent to change rates.
10. CenterPoint failed to meet its burden of proof in accordance with the provisions of Tex. Util. Code Ann. §104.008 (Vernon 2007) on the elements of its requested rate increase identified in this order.
11. The rates proposed by CenterPoint are in accordance with Tex. Util Code Ann. §104.006 (Vernon 2007) because the rates established for customers of each environs area do not exceed 115 percent of the average of all rates for similar services for all municipalities served by CenterPoint in the same county.
12. The revenue, rates, rate design, and service charges proposed by CenterPoint are not found to be just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are not sufficient, equitable, and consistent in application to each class of consumer, as required by Tex. Util. Code Ann. §104.003 (Vernon 2007).
13. The revenue, rates, rate design, and service charges proposed by CenterPoint, as amended by the Commission and identified in the schedules attached to this order, are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by Tex. Util. Code Ann. §104.003 (Vernon 2007).
14. The overall revenues as established by the findings of fact and attached schedules are reasonable; fix an overall level of revenues for CenterPoint that will permit the company a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses, as required by Tex. Util. Code Ann. § 104.051 (Vernon 2007); and otherwise comply with Chapter 104 of the Texas Utilities Code.
15. The revenue, rates, rate design, and service charges proposed will not yield to CenterPoint more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public, as required by Tex. Util. Code Ann. § 104.052 (Vernon 2007).
16. The rates established in this docket comport with the requirements of Tex. Util. Code Ann. §104.053 (Vernon 2007) and are based upon the adjusted value of invested capital used and useful, where the adjusted value is a reasonable balance between the original cost, less depreciation, and current cost, less adjustment for present age and condition.

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17. The rates established in this case comply with the affiliate transaction standard set out in Tex. Util. Code Ann. § 104.055 (Vernon 2007). Namely, in establishing a gas utility's rates, the regulatory authority may not allow a gas utility's payment to an affiliate for the cost of a service, property, right or other item or for an interest expense to be included as capital cost or an expense related to gas utility service except to the extent that the regulatory authority finds the payment is reasonable and necessary for each item or class of items as determined by the regulatory authority. That finding must include (1) a specific finding of reasonableness and necessity to each class of items allowed; and (2) a finding that the price to the gas utility is not higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to a nonaffiliated person for the same item or class of items.
18. In accordance with Tex. Util. Code Ann. §104.054 (Vernon 2007) and Tex. Admin. Code §7.5252, book depreciation and amortization was calculated on a straight line basis over the useful life expectancy of CenterPoint's property and facilities.
19. In this proceeding, CenterPoint has the burden of proof under Tex. Util. Code Ann. §104.008 (Vernon 2007) to show that the proposed rate changes are just and reasonable.
20. Rate case expenses for GUD No. 9902 will be considered by the Commission in accordance with Tex. Util. Code Ann. §104.008 (Vernon 2007), and 16 Tex. Admin. Code §7.5530 (2008), in a separate proceeding.
21. It is reasonable for the Commission to allow CenterPoint to include a Purchased Gas Adjustment Clause in its rates to provide for the recovery of all of its gas costs, in accordance with 16 Tex. Admin. Code § 7.5519 (2008).
22. All expenses for lost and unaccounted for gas in excess of 5.0 percent shall be disallowed, consistent with Tex. Admin. Code § 7.5519 (2008).
23. CenterPoint is required by 16 Tex. Admin. Code §7.315 (2008) to file electronic tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.
24. CenterPoint is required by 16 Tex. Admin. Code § 7.310 to utilize the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA) prescribed for natural gas companies.

IT IS THEREFORE ORDERED that CenterPoint's proposed schedule of rates is hereby **DENIED**.

IT IS FURTHER ORDERED that the rates, rate design, and service charges established in the findings of fact and conclusions of law and shown on the attached Schedules for CenterPoint are **APPROVED**.

IT IS FURTHER ORDERED that CenterPoint properly book assets in FERC accounts 396 and 392.

IT IS FURTHER ORDERED that, in accordance with 16 Tex. Admin. Code §7.315, within 30 days of the date this Order is signed, CenterPoint shall file tariffs with the Gas Services Division. The tariffs shall incorporate rates, rate design, and service charges consistent with this Order, as stated in the findings of fact and conclusions of law and shown on the attached Schedules.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted in this Order are hereby **DENIED**. **IT IS ALSO ORDERED** that all pending motions and requests for relief not previously granted or granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED THAT within 30 days of this order CenterPoint **SHALL** electronically file tariffs and rate schedules in proper form that accurately reflect the rates approved by the Commission in this Order.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is

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presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party of interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 23rd day of February, 2010.

RAILROAD COMMISSION OF TEXAS

/s/
CHAIRMAN VICTOR G. CARRILLO

/s/
COMMISSIONER ELIZABETH A. JONES

/s/
COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:

Rachel Hampton
SECRETARY

SECTION 6
MISCELLANEOUS

WILLIAM O. GEISE, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

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A. Publications

1. Texas Utilities Code Titles 3 and 4. Now available at the State of Texas' website at:

<http://www.statutes.legis.state.tx.us>

Special Rules of Practice and Procedure and Substantive Rules. Now available thru the Commission's Website at:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=7)

- 2.

- a. Annual Report for Fiscal Year – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/annualrpt/index.php>

3. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - \$2.00 – Now available via the Commission's website at:

<http://www.rrc.state.tx.us/data/gasservices/sixmcf/index.php>

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2010 is 0.34%. All gas utilities should use 2.09% through December 31, 2009 and use 0.34% effective January 1, 2010.

2. UTILITY AUDIT SECTION**A. Maintains headquarters and three district offices as follows:**

Headquarters - William B. Travis Building

1701 North Congress, P. O. Box 12967, Austin, Texas 78701

Ed Abrahamson, Director, Utility Audit Section

Pearl Rodriguez, Program Specialist

Telephone (512) 463-7022

Fax (512) 475-3180

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043

Telephone (972) 240-5757

Fax (972) 303-1897

Yolandra Davis, Auditor

Josh Settle, Auditor

Austin District- P. O. Box 12967, Austin, Texas 78711-2967

Telephone (512) 463-7022

Fax (512) 475-3180

Stephen Cooper, Senior Auditor

Houston District- 1706 Seamist Drive. Suite 501

Houston, TX 77008-3135

Telephone (713) 869-8425

Fax (713) 869-3219

Margie Stoney, Senior Auditor

Larry Alcorn, Auditor

Dale Francis, Auditor

LaToya Johnson, Auditor

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Konata Uzoma, Auditor

B. Gas Utility Tax, Annual Reports and Audit Reports

1. Questions relating to gas utility tax, call Pearl Rodriguez at (512) 463-7022.
2. Questions relating to annual reports, call Pearl Rodriguez at (512) 463-7022.
3. Inquiries relating to audit reports, call Pearl Rodriguez at (512) 463-7022.

C. Available Information

Copies of gas utility annual reports (2000 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of seven to ten business days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180.

3. MARKET OVERSIGHT**A. Maintains the following office to assist you:**

Headquarters - William B. Travis Building
1701 North Congress, P.O. Box 12967, Austin, Texas 78711
Mark Evarts, Director

Telephone (512) 463-7164

B. Gas Utilities Information Bulletin

Published on the Commission's web site at:

<http://www.rrc.state.tx.us/forms/newsletters/gasutilitybulletins/index.php>**C. Proposals For Decision**Published on the Commission's web site at: <http://www.rrc.state.tx.us/meetings/dockets/index.php>**D. Tariff Filings**

Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, Yolanda Lovelace or Marie Blanco at (512) 463-7167.

E. Curtailments

Curtailment questions should be referred to (512) 463-7167. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7167. Curtailment reports made during hours other than those specified above and holidays, should be made to (512) 463-6788.

F. Compliance Filings

Questions regarding gas utilities docket compliance filing requirements should be referred to Mark Brock at (512) 463-7164.

G. Complaints and Inquiries

All complaints and inquiries relating to the gas utility industry should be directed to the Market Oversight Section at (512) 463-7164.

H. Pending RRC Rules and Regulations:

4. HEARINGS AND LEGAL ANALYSIS

A. Miscellaneous

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. Status of Pending Cases

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call the Legal Division at (512) 463-7017.